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EXAMINER
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TECKLU, ISAAC TUKU

ART UNIT	PAPER NUMBER
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2192

NOTIFICATION DATE	DELIVERY MODE
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10/05/2011

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/575,341	STICH ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	ISAAC TECKLU	2192	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 July 2011.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on \_\_\_\_; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 5) ☒ Claim(s) 1,4-6,8-10,12-14 and 16-21 is/are pending in the application.
- 5a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 6) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 7) ☒ Claim(s) 1, 4-6, 8-10, 12-14, 16-21 is/are rejected.
- 8) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 9) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____.                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____.  | 6) <input type="checkbox"/> Other: ____.                          |

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### **DETAILED ACTION**

1. Claims 2-3, 7, 11, and 15 have been cancelled.
2. New claim 21 has been added.
3. The rejection to claims 1-8 and 17-18 under 35 U.S.C. 101 has been withdrawn in view of the amendment.
4. Claims 1, 4-6, 8-10, 12-14, 16-21 have been examined.

### ***Claim Rejections - 35 USC § 101***

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claim 21 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 21 is not limited to statutory subject matter. Claim 21 recites “tangible computer readable medium.” However, the specification does not describe such medium. The specification does not distinguish between non transitory medium and transitory medium.

A computer-readable media is a tangible physical article or object, some form of matter, which a signal (infrared)/carrier wave is not. That the other two product classes, machine and composition of matter, require physical matter is evidence that a manufacture was also intended to require physical matter. A signal/carrier wave, a form of energy, does not fall within either of the two definitions of manufacture. Thus, a signal/carrier wave does not fall within one of the four statutory classes of Sec. 101. See MPEP 2106.

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Under the principles of compact prosecution, claim 21 has have been examined as the Examiner anticipates the claim will be amended to obviate these 35 USC 101 issues. For example, --... A non-transitory computer readable medium...--

### ***Response to Arguments***

7. Applicant's arguments with respect to claims 1, 4-6, 8-10, 12-14, 16-21 have been considered but are moot in view of the new ground(s) of rejection. See new ground of rejection with new art made of record (Moshir et al. US 2004/0003266 A1) below:

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1, 4, 9, 12, and 17-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gonzalez et al. (US 2003/0200149) in view of Wookey (US 2002/0147974 A1), in view of Brown (US 2003/0212780 A1), in view of Te'eni et al. (US 6,725,452 B1) further in view of Moshir et al. (US 2004/0003266 A1).

As per claim 1 (Currently Amended), Gonzalez discloses a system for automatically creating, installing, verifying and configuring functionalities, stored in installation, verification and/or configuration files as software packages (e.g. ¶ [0015], creating network installation packages with configuration with pre-validation, FIG. 2) , for system components, arranged in a distributed

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automation system (e.g. FIG. 1, Distributed System 10, ¶ [0020], installation in distributed system, FIG. 10, Installation, Configuration), using a knowledge-based system planning tool (4) which comprises a user interface (40) (e.g. FIG. 8, User Interface), planning logic unit (e.g. ¶ [0009], planning module), a data management unit and a processor (e.g. FIG. 2, Network Install Manager 80), a planning database (e.g. FIG. 2, 83, database), where

- selected system options in the user interface are selected for the planning logic unit (e.g. FIG. 8, options in the user interface for Planning, installation, HW Configuration, e.g. ¶ [0051], right click on option for topology (structure), e.g. FIG. 3, 122, topology (structure) diagram) and the data management unit (e.g. FIG. 8, Network Installation Mgr. 80),
- the planning database stores system information for the data management unit (e.g. FIG. 2, database 83, contains information about the system hardware and software), the planning logic unit produces plans for the system structure from the system options in the user interface (e.g. FIG. 2, Planning Module 81 generates plans in the GUI, FIG. 8, ¶ [0056], planning module 81, used for guidance) and supplies them to the data management unit (e.g. ¶ [0056], planning module 81, used for guidance, user execute installation manager 80 and call up planning module to obtain guidance, i.e. plans are supplied to installation manager 80),
- the data management unit generates and configures software packages from the system options in the user interface (e.g. ¶ [0050], ¶ [0051], ¶ [0052], network installation manager 80 may then push software setting for configuration and also for installing the named software package), from the system information in the planning database (e.g. FIG. 2, database 83) and from the plans for the system

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structure which are produced in the planning logic unit (e.g. ¶ [0009], planning module), and

- Gonzalez discloses how the software is installed (e.g. FIG. 4, Push Software 218, e.g. (e.g. ¶ [0052], allow the user to launch the software that has been pushed). However, Gonzalez does not explicitly disclose transfers the software packages to the installation tool. Nevertheless, as evidenced by the teaching of Wookey, it is commonly known to transfer software packages for installation to installation tools (e.g. ¶ [0012], installation tool to install software package). Thus, it is respectfully submitted that it would have been obvious to one skilled in the art at the time the invention was made to have an installation tool in order to dynamically install software package as once suggested by Wookey (e.g. ¶ [0012]).

Gonzalez and Wookey do not disclose the data management unit interacts with a change unit in order to update the planning data stored in the planning database and/or the plans produced by the planning logic unit. However, Brown discloses updating planning data in the data base to reflect changes (e.g. ¶ [0068]). Thus, it is respectfully submitted that it would have been obvious to one skilled in the art at the time the invention was made to modify the above teachings of the combined references by having the data management unit interact with a change unit in order to maintain the planning data up to date in the planning data base (e.g. ¶ [0068]).

Gonzalez, Wookey and Brown do not explicitly disclose the installation tool automatically checks the software packages taking account of rules, stipulations and dependencies among the system components. However, Te'eni, it is commonly known to have an installation tool automatically check the software packages taking account of rules (e.g. col.7:35-40, dependency check, component A-specific rule). Thus, it is respectfully submitted that it would have been obvious to one skilled in the art at the time the invention was made to have an installation tool

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automatically check the software packages taking account of rules, stipulations and dependencies among the system components in order to resolve any conflict with regard to software packages taking account of rules, stipulations and dependencies among the system components. Furthermore, Moshir discloses checking software packages taking account of rules and stipulations (e.g. Fig. 8. 808, 810). Thus, it is respectfully submitted that it would have been obvious to one skilled in the art at the time the invention was made to modify the above teachings of the combined references by checking software packages taking account of rules and stipulations in order to ensure compliance of rules and stipulations.

As per claim 4, Gonzalez discloses wherein the system options selected in the user interface comprises information about the system structure (e.g. ¶ [0051], right click on option for topology (structure), e.g. FIG. 3, 122, topology (structure) diagram) and the system types (e.g. ¶ [0051], option for topology (structure) and node type (system type)).

As per claims 17 and 19, neither Gonzalez, Wookey, Te'eni nor Moshir explicitly discloses wherein a change unit is used to update the planning data stored in the planning database and/or the plans produced by the planning logic unit. Nevertheless, as evidenced by the teaching of Brown, it is commonly known to have a change unit to update the planning data stored in the planning database and/or the plans produced by the planning logic unit (e.g. ¶ [0068]). Thus, it is respectfully submitted that it would have been obvious to one skilled in the art at the time the invention was made to have change unit used to update the planning data stored in the planning database as once suggested by Brown (e.g. ¶ [0068]).

As per claim 18, Gonzalez discloses the system as claimed in claim 17, wherein the system options selected in the user interface comprise information about the system structure (e.g. ¶ [0051],

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option for topology (structure), e.g. FIG. 3, 122, topology (structure) diagram) and the system types (e.g. ¶ [0051], option for topology (structure) and node type (system type) and e.g. FIG. 2, database 83, contains information about the system hardware and software).

Per claims 9, 12, 20 and 21, these are method and medium claims substantially paralleling the limitations in system claims 1-2, 4, and 18, respectively. The above combined references further disclose these methods in implementing the prescribed steps, and all other limitations have been addressed as set forth above.

10. Claims 5 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gonzalez et al. (US 2003/0200149) in view of Wookey (US 2002/0147974 A1), in view of Brown (US 2003/0212780 A1), in view of Te'eni et al. (US 6,725,452 B1) in view of Moshir et al. (US 2004/0003266 A1), further in view of Gazdik et al. (US 6,301,708 B1).

As per claim 5, the above combined references do not explicitly disclose wherein the software packages are system component data and setup data for the system components. However, Gazdik discloses the incorporation of component data file in software package (e.g. col.3:1-5). Thus, it is respectfully submitted that it would have been obvious to one skilled in the art at the time the invention was made to modify the above teachings of the combined references by incorporating component data file in software package in order to supply the component data and set up data in software format during updating the software as once suggested by Gazdik (e.g. col.3:1-5).

11. Claims 6 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gonzalez et al. (US 2003/0200149) in view of Wookey (US 2002/0147974 A1), in view of Brown (US



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2003/0212780 A1), in view of Te'eni et al. (US 6,725,452 B1) further in view of Moshir et al. (US 2004/0003266 A1), further in view of Chen et al. (US 7,409,685 B2).

As per claim 6, the above combined references do not explicitly disclose wherein a data generator is provided in the data management unit for producing the software packages. However, Chen discloses a generator to build software package (e.g. FIG. 5B). Thus, it is respectfully submitted that it would have been obvious to one skilled in the art at the time the invention was made to modify the above teachings of the combined references by having a data generator incorporated in the data management unit in order to efficiently provide software packages through the data management unit.

12. Claims 8 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over over Gonzalez et al. (US 2003/0200149) in view of Wookey (US 2002/0147974 A1), in view of Brown (US 2003/0212780 A1), in view of Te'eni et al. (US 6,725,452 B1) further in view of Moshir et al. (US 2004/0003266 A1), further in view of Agulhon (US 6,912,543 B2).

As per claim 8, the above combined references do not explicitly disclose wherein the installation tool provides the software packages for transmission, installation and configuration for the respective system components. However, Agulhon discloses an install tool which is configured to transfer or transmit data files (e.g. col.1:45-50). Thus, it is respectfully submitted that it would have been obvious to one skilled in the art at the time the invention was made to modify the above teachings of the combined references by having the installation tool provide functionality such as transmission in order to provide multiple functionality incorporated in the installation tool.

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Note: Per claims 13-14, 16, these are method claims substantially paralleling the limitations in system claims 5-6, 8, respectively. The above combined references further disclose these methods in implementing the prescribed steps, and all other limitations have been addressed as set forth above.

### ***Conclusion***

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ISAAC TECKLU whose telephone number is (571)272-7957. The examiner can normally be reached on M-F 9:00A - 5:00P.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam can be reached on (571) 272-3695. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ISAAC TECKLU/

Examiner, Art Unit 2192

/Thuy Dao/

Primary Examiner, Art Unit 2192